

Vinson&Elkins

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February 21, 2007

By Facsimile: (713) 250-5894
Ms. Rhonda Moore-Konieczny
Case Manager
United States District Judge Gray H. Miller
515 Rusk, Room 8613
Houston, Texas 77002

Re: Master File No. H- 05-2121 – Class Action; *In re Cyberonics Inc. Securities Litigation*; in the United States District Court for the Southern District of Texas, Houston Division

Dear Ms. Moore-Konieczny:

As we discussed yesterday, this letter is to advise you that 60 days have elapsed since the lead plaintiff in this action complied with the court's order of November 28, 2006 and published its notice concerning the filing of an amended complaint in this action.

Attached is a copy of a press release issued by lead counsel on December 18, 2006 that we found on the PrimeNewswire website (www.primezone.com). PrimeNewswire describes itself as a global newswire service that delivers content to 4,000 media (daily newspapers, journals, news bureaus, TV and radio stations, community papers, online media), more than 1.5 million desktops of the professional investment community (analysts, brokers, institutional investors, etc.), and over 1,600 databases, Internet sites and Web portals. Also attached is a copy of the press release that we printed from lead counsel's website.

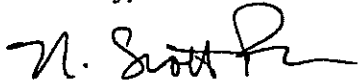
The court's November 28, 2006 order stayed this action until the new notice was published and the lead plaintiff process was completed in accordance with the schedule required by the Private Securities Litigation Reform Act. The Act provides a 60-day period after the notice is published for investors who want to be lead plaintiff to step forward. To our knowledge, no investors other than the plaintiffs already appearing in this action have filed any motion to be named as lead plaintiff and the court's docket does not reflect any such filing. Accordingly, absent other considerations, since the Court previously appointed lead plaintiff in this matter and no other investors have requested the opportunity to be appointed, we

V&E

February 21, 2007 Page 2

believe the motions to dismiss the amended complaint that were filed and fully briefed last fall are now ripe for consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "N. Scott Fletcher", with a stylized flourish at the end.

N. Scott Fletcher

Enclosure

cc: All Counsel of Record

Lead Plaintiff Cyberonics Investor's Group Have Filed an Amended Complaint Against C... Page 1 of 2



NEWS Releases

Source: Scott+Scott, LLP

Lead Plaintiff Cyberonics Investor's Group Have Filed an Amended Complaint Against Cyberonics, Inc. -- CYBX

SAN DIEGO, Dec. 18, 2006 (PRIME NEWSWIRE) (PRIMEZONE) -- Court-appointed Lead Plaintiffs in In re Cyberonics, Inc. Securities Litigation, Master File No. H-0502121, U.S. District Court for the Southern District of Texas, announce the filing of a first amended class action complaint on behalf of purchasers of Cyberonics, Inc. ("Cyberonics") (Nasdaq:CYBX) securities during the period from February 5, 2004, through August 1, 2006, inclusive.

Investors who purchased Cyberonics securities during the expanded Class Period and suffered damages may move the Court for consideration to be appointed as a lead plaintiff no later than 60 days from today. Any purported class member who wishes to do so may move the Court to serve as lead plaintiff through counsel of their choice, including current Court-appointed Co-Lead Counsel, or may choose to do nothing and remain an absent class member. If you wish to discuss this action or have questions concerning this notice or your rights, please contact Scott+Scott partner David Scott (drscott@scott-scott.com, 800/404-7770, 860/537-5537) or Finkelstein & Krinsk partner Jeffrey R. Krinsk (jrk@classactionlaw.com, 877/493-5366, 619/238-1333). There is no cost or fee to you.

The First Amended Complaint ("Amended Complaint") charges Cyberonics and certain of its current and former officers and directors with violations of the Securities Exchange Act of 1934. The Amended Complaint alleges defendants failed to disclose and misrepresented material information known to defendants regarding FDA review and approval of a new use for the company's Vagus Nerve Stimulation ("VNS") device to treat depression, the marketability of the VNS device and medical insurance "Payers" coverage decisions for the device. The Amended Complaint also alleges improper conduct related to the award of stock option grants to certain senior Cyberonics officers, including that the options were fraudulently backdated and that the company had flawed and defective internal controls over accounting and for the options. This resulted in the improper reporting of executive compensation and expenses and violated generally accepted accounting practices ("GAAP").

More information on this and other class actions can be found on the Class Action Newsline at www.primenewswire.com/ca/

CONTACT: Finkelstein & Krinsk, LLP

Other News Release Scott+Scott, LLP

[Scott+Scott, LLP Files Class Action Lawsuit Against Century Financial Corp. of Investors -- NEW - Feb 14, 2007](#)

[Scott+Scott, LLP Files Class Action Lawsuit Against Ltd. On Behalf of Investors ALVR - Feb 6, 2007](#)

[Update -- Scott+Scott, LLP Files Class Action Lawsuit Against Capital Group Inc., Capital Research and Management and American Funds Distributors, Inc., On Behalf of Investors - Jan 14, 2007](#)

[Scott+Scott, LLP Files Class Action Lawsuit Against Capital Group Inc., Capital Research and Management Co., and American Funds Distributors, Inc. On Behalf of Investors - Jan 14, 2007](#)

[Scott+Scott, LLP Files Class Action Lawsuit Against Tankers, Inc. on Behalf of Investors -- TOPT - Dec 21, 2006](#)

[Scott+Scott, LLP Files Class Action Lawsuit Against Natural Corp. on Behalf of Investors -- HANS - Dec 14, 2006](#)

[Scott+Scott, LLP Notifies Investors of Filing Deadlines to Move](#)

TO: Fax COMPANY:

Lead Plaintiff Cyberonics Investor's Group Have Filed an Amended Complaint Against C... Page 2 of 2

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[Plaintiff Appointment In
Action Against Xethanol
XNL](#) - Dec 14, 2006

[Scott+Scott, LLP Notifie
Investors of Filing Dead
Business Days to Move
Plaintiff Appointment in
Action Against Loudeye
LOUD](#) - Nov 20, 2006

Keywords: LEGAL, CLASS ACTION LAWSUITS

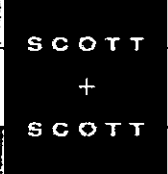
[Scott+Scott, LLC Files \(
Action Lawsuit Against \)
Corp. on Behalf of Inve
XNL](#) - Nov 1, 2006

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NEW SECURITIES CASES

Cyberonics, Inc.

Summary of Case: Court-appointed Lead Plaintiffs in *In re Cyberonics Inc. Securities Litigation* announce the filing of a first amended class act complaint on behalf of purchasers of Cyberonics, Inc. ("Cyberonics") (NASDAQ: CYBX) securities during the period from February 5, 2004 through August 1, 2006, inclusive. The deadline for Lead Plaintiff is February 15, 2007.

If you purchased CYBX shares during the expanded Class Period and suffered a loss, please contact Scott + Scott through the link below.

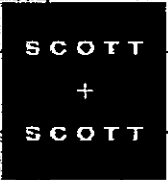
Complaint
Press Release
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New Securities Cases
New Century Financial Corp.
Alvarion Ltd.
American Funds Distributors, Inc.
Cyberonics, Inc.
Hansen Natural Corporation
Top Tankers, Inc.
Xethanol Corporation
Loudeye Corp.
Dell Inc.
HPS Pharmaceuticals Inc.

CASE SEARCH

SEARCH FOR SECURITIES LITIGATION CASES

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ATTORNEYS AT LAW

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NEW SECURITIES CASES

(b)

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Monday, December 18, 2006

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CASE SEARCH

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